

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT District Attorney	(2) MEETING DATE 3/19/2013	(3) CONTACT/PHONE Gerald T. Shea, District Attorney 781-5800	
(4) SUBJECT Submittal of a resolution amending the Position Allocation List (PAL) for Fund Center 132 - District Attorney by adding a 1.00 limited term FTE District Attorney Investigator II position dedicated to the Real Estate Fraud Prosecution Program (REFPP).			
(5) RECOMMENDED ACTION It is recommended that the Board approve a resolution amending the Position Allocation List (PAL) for Fund Center 132 - District Attorney by adding a 1.00 limited term FTE District Attorney Investigator II position dedicated to the Real Estate Fraud Prosecution Program (REFPP).			
(6) FUNDING SOURCE(S) Real Estate Prosecution Fraud Fee	(7) CURRENT YEAR FINANCIAL IMPACT \$33,034.00 (April thru June 2013)	(8) ANNUAL FINANCIAL IMPACT \$138,502.00 (Fiscal Year 2013-14)	(9) BUDGETED? No
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input type="checkbox"/> Board Business (Time Est. ____)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>2/5/2013</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Geoff O'Quest, Administrative Analyst			
(18) SUPERVISOR DISTRICT(S) All Districts -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: District Attorney / Gerald T. Shea, District Attorney
781-5800

DATE: 3/19/2013

SUBJECT: Submittal of a resolution amending the Position Allocation List (PAL) for Fund Center 132 - District Attorney by adding a 1.00 limited term FTE District Attorney Investigator II position dedicated to the Real Estate Fraud Prosecution Program (REFPP).

RECOMMENDATION

It is recommended that the Board approve a resolution amending the Position Allocation List (PAL) for Fund Center 132 - District Attorney by adding a 1.00 limited term FTE District Attorney Investigator II position dedicated to the Real Estate Fraud Prosecution Program (REFPP).

DISCUSSION

The District Attorney's Real Estate Fraud Prosecution Program (REFPP) (formerly the Real Estate Fraud Unit), now in its fourth year of operation, continues to implement the goals of deterring, investigating and prosecuting real estate fraud crimes. The REFPP is currently funded in part by a fee collected on specified real estate instruments recorded with the San Luis Obispo County Clerk-Recorder's Office. This fee, previously \$3 per document, was recently authorized to increase to \$7 by the Board's adoption of a resolution on February 5, 2013.

Prior to the fee increase from \$3 to \$7 passed by the Board on February 5, 2013, the revenue generated by fees collected upon the recording of certain real estate instruments was sufficient to only partially fund a REFPP team of one portion of a Deputy District Attorney's salary and one portion of an Investigator's salary. Meanwhile, the unit continues to operate under a shortage of resources to address pending cases and the future cases expected to be generated by public awareness campaigns from groups such as RESAFE, a county organization of professionals known as Real Estate Scam and Fraud Exposure.

Currently California leads the nation with almost 40,000 residences pending foreclosure. Approximately 2.2 million people or one-third of all California homeowners are "upside down" on their mortgages. These staggering foreclosure statistics render our state and county vulnerable to real estate fraud perpetrators preying on desperate homeowners facing foreclosure.

Accordingly, foreclosure rescue and related schemes are one of today's most prevalent types of real estate fraud. Investigation and prosecution of real estate fraud and related crimes is time intensive. Prosecutors and investigators handling such crimes require substantial training and expertise, and real estate fraud schemes typically cross jurisdictional boundaries, complicating prosecution efforts.

A newly hired District Attorney Investigator assigned to the Real Estate Fraud Unit's caseload will implement effective investigative strategies to increase the number of successful mortgage and fraud-related investigations and prosecutions. By focusing investigative efforts on cases involving multiple suspects, a substantial number of victims or monetary loss, and using investigative tools available, along with local, state and federal agencies, the unit will not only continue to investigate and successfully manage the growing number of mortgage fraud cases, but also engage in proactive measures to deter and prevent new mortgage fraud through educational and community outreach efforts.

The pairing of a mortgage fraud investigator with a prosecutor will provide for the management of cases from the early stages. The investigator will pre-screen complaints, preparing a factual synopsis for the prosecutor so as to maximize time efficiency. As the case progresses, the investigation will cooperate with both state and federal partners (e.g., Department of Real Estate, Department of Insurance, Federal Bureau of Investigations, Internal Revenue Service, and Secret Service) to identify and utilize the most effective and unique tools available to successfully investigate and prosecute these unique cases.

The District Attorney Investigator assigned to the Real Estate Fraud Prosecution Program will also be the liaison with the Real Estate Scam and Fraud Exposure team (RESAFE), a group of concerned local real estate professionals. RESAFE is a volunteer group whose mission is to educate both the public and industry professionals in their efforts to prevent, deter and report real estate fraud. In conjunction with RESAFE, the District Attorney Investigator will organize and present educational outreach programs. These presentations will be designed to educate both the public and real estate professionals about real estate fraud awareness.

OTHER AGENCY INVOLVEMENT/IMPACT

This request has been coordinated with the County Administrative Office and Human Resources Department.

FINANCIAL CONSIDERATIONS

There will be no impact to General Fund Support. The compensation for this new position is approximately \$33,034 for the remainder of this fiscal year (April thru June 2013) and approximately \$138,502 next fiscal year. However, since the primary purpose for this position is to meet the impending need and expand our ongoing efforts to prevent, deter and prosecute real estate fraud in San Luis Obispo County, the cost will be offset by Real Estate Prosecution Fraud fees which were increased by the Board on February 5, 2013.

Anticipated FY 2013-14 fraud fee revenue is \$289,611 based on the recording of 45,970 estimated documents and after 10% in administrative costs are paid to the County Clerk-Recorder. Remaining revenue [\$321,790 (recording fees) less \$32,179 (administrative costs) less \$138,502 (DA Investigator II salary)] or \$151,109 will be applied to existing position salaries of the unit's Deputy District Attorney and District Attorney Investigator who are only partially funded at this present time.

This increase in the fee will sunset in five years, on February 4, 2018, in order to allow the Board of Supervisors to revisit and revise the amount of the fee in light of the total revenues in the Real Estate Fraud Trust at that time. Based on this, the Investigator position will be added to the Position Allocation List as a limited term position, with the same expiration date as the funding.

RESULTS

The overall results will be to help ensure that the interest of the County and its citizens are met by bringing justice and safety to our community by implementing the Real Estate Fraud Prosecution Program's goals of deterring, investigating and prosecuting real estate fraud crimes.

In October 2012, RESAFE approached the District Attorney's Office about collaborating efforts. They have included a proposed public access link on their website, www.RESAFE.org, which will provide, among other things, the ability for fraud victims to file complaints with the San Luis Obispo County District Attorney's Office. Widespread implementation of RESAFE's services through the publication and distribution of their print material, public website access, and community information sessions, will undoubtedly increase the number of fraud referrals to the District Attorney's Office, and, correspondingly, the number of investigations and prosecutions. It is believed that this increased awareness and ease in ability to report a real estate fraud crime, particularly for the elderly and minority victims who may otherwise go unreported, will significantly impact the District Attorney's Office's handling of real property crimes, foreclosure bailout scams, "straw buyer" scams, forgery of deeds, and home equity thefts.

ATTACHMENTS

1. District Attorney Investigator II PAL Change Resolution